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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 JUAN LOPEZ-GABRIEL,

16 Defendant.

Case No. 11CR2702-H

ORDER DENYING PETITION  
FOR WRIT OF ERROR CORAM  
NOBIS WITHOUT PREJUDICE

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19 Pending before the Court is a petition for writ of error coram nobis (“petition”)  
20 filed by Defendant Juan Lopez-Gabriel (“Defendant”). (Doc. No. 34.) Federal  
21 Defenders of San Diego, Inc. (“Federal Defenders”) filed the petition on the  
22 Defendant’s behalf in light of Federal Defenders’ appointment in the Defendant’s other  
23 criminal case in United States v. Lopez-Gabriel, S.D. Cal. Case No. 16-CR-0487-W.<sup>1</sup>  
24 The petition was filed in this closed criminal case. Accordingly, the Court denies  
25 without prejudice the Defendant’s petition in this closed criminal case. The Defendant  
26 is free file the petition in a new civil case. See Korematsu v. United States, 584 F. Supp.  
27 1406, 1412 (N.D. Cal. 1984) (“[P]etitions for a writ of coram nobis should be treated in  
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<sup>1</sup> S.D. Cal. Case No. 16-CR-0487-W is assigned to the Honorable Thomas J. Whelan.

1 a manner similar to [28 U.S.C.] § 2255 habeas corpus petitions.”) (citing United States  
2 v. Taylor, 648 F.2d 565, 573 (9th Cir. 1981)); see also Trenkler v. United States, 536  
3 F.3d 85, 95 (1st Cir. 2008) (“[W]e hold that coram nobis proceedings are appealable as  
4 civil matters”).

5 IT IS SO ORDERED.

6 DATED: August 8, 2017

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8 HONORABLE MARILYN L. HUFF  
9 UNITED STATES DISTRICT JUDGE  
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